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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|--|-------------|----------------------|-------------------------|------------------|
| 09/687,420 | 10/13/2000 | Peter Joseph Rock | 13DV13812 | 8491 |
| 29399 | 7590 | 02/09/2004 | EXAMINER | |
| JOHN S. BEULICK C/O ARMSTRONG TEASDALE LLP ONE METROPOLITAN SQUARE SUITE 2600 ST. LOUIS, MO 63102-2740 | | | CHEN, CHONGSHAN | |
| | | | ART UNIT | PAPER NUMBER |
| | | | 2172 | |
| | | | DATE MAILED: 02/09/2004 | |

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Please find below and/or attached an Office communication concerning this application or proceeding.

Advisory Action

Application No.

09/687,420

Applicant(s)

ROCK ET AL.

Examiner

Chongshan Chen

Art Unit

2172

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 26 January 2004 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE. Therefore, further action by the applicant is required to avoid abandonment of this application. A proper reply to a final rejection under 37 CFR 1.113 may only be either: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114.

PERIOD FOR REPLY [check either a) or b)]

- a) ☐ The period for reply expires _____ months from the mailing date of the final rejection.
- b) ☒ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection. ONLY CHECK THIS BOX WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

1. ☐ A Notice of Appeal was filed on _____. Appellant's Brief must be filed within the period set forth in 37 CFR 1.192(a), or any extension thereof (37 CFR 1.191(d)), to avoid dismissal of the appeal.
2. ☐ The proposed amendment(s) will not be entered because:
- (a) ☐ they raise new issues that would require further consideration and/or search (see NOTE below);
- (b) ☐ they raise the issue of new matter (see Note below);
- (c) ☐ they are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
- (d) ☐ they present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____

3. ☐ Applicant's reply has overcome the following rejection(s): _____.
4. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
5. ☒ The a) ☐ affidavit, b) ☐ exhibit, or c) ☒ request for reconsideration has been considered but does NOT place the application in condition for allowance because: See Continuation Sheet.
6. ☐ The affidavit or exhibit will NOT be considered because it is not directed SOLELY to issues which were newly raised by the Examiner in the final rejection.
7. ☒ For purposes of Appeal, the proposed amendment(s) a) ☐ will not be entered or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

The status of the claim(s) is (or will be) as follows:

Claim(s) allowed: _____

Claim(s) objected to: _____

Claim(s) rejected: 1-18

Claim(s) withdrawn from consideration: _____

8. ☐ The drawing correction filed on _____ is a) ☐ approved or b) ☐ disapproved by the Examiner.
9. ☐ Note the attached Information Disclosure Statement(s) (PTO-1449) Paper No(s).
10. ☐ Other: _____


ALFORD KINDRED
PRIMARY EXAMINER

As per applicant's arguments regarding claim 1-18, the references does not disclose any subjective **qualities desired** in a candidate, such as analytical ability, self-confidence, initiative, change orientation, and interpersonal skills, have been considered but are not persuasive. Brady discloses **desired attributes** associated with individuals, and gives some examples of the desired attributes following the term "such as" (Brady, col. 6, lines 1-21). The term "such as" is an open term, and it does not limit the attributes of the desired attributes. The desired attributes clearly include analytical ability, self-confidence, initiative, change orientation, and interpersonal skills.

In response to applicant's argument that there is no suggestion to combine the references, the examiner recognizes that obviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found either in the references themselves or in the knowledge generally available to one of ordinary skill in the art. See *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988) and *In re Jones*, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992). In this case, both Brady and Haq are related to a human resource system. Brady teaches providing desired attributes associated with individuals. It is beneficial to provide the additional information about a candidate prior to contacting the potential candidate (Brady, col. 6, lines 19-21). These information will help the system of Haq to better assess the candidate's suitability for the job.

As per applicant's arguments regarding the reference describe the assessment of employee suitability for a project is based on quantitative evaluation and not on a **subjective consideration** have been considered but are not persuasive. In response to

applicant's argument, it is noted that the features upon which applicant relies (i.e., subjective consideration) are not recited in the rejected claim(s). Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).

As per applicant's arguments regarding the reference does not describe a method for determining candidates to interview have been considered but are not persuasive. Haq discloses select suitable employees (Haq, col. 5, lines 52-53). Brady teaches select a candidate to interview (Brady, col. 6, lines 19-21, "... contacting the potential candidate ..."). Clearly, Brady teaches select the potential candidate to interview.